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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,634	08/01/2001	Yoon-Hyoung Cho	247/033	3246
7590	11/21/2003			
Lee & STERBA, P.C. Suite 2000 1101 Wilson Boulevard Arlington, VA 22209			EXAMINER PATEL, ASHOK	
			ART UNIT 2879	PAPER NUMBER

DATE MAILED: 11/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/918,634	Applicant(s) CHO ET AL.
	Examiner Ashok Patel	Art Unit 2879

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10/30/02.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 and 3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1 and 3 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ . |

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1. Applicant's arguments filed 10/30/2003 have been fully considered but they are not persuasive.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kawamura et al ('321, of record).

Kawamura et al disclose applicant's claimed CRT (see Figures 1, 2) including a flat panel (1), a funnel having a neck and an opening, an electron gun (7), a deflection yoke (9), a shadow mask (6), wherein the panel includes a flatly configured outer (front) surface (11) and an inner surface (the surface that is adjacent to a phosphor layer 10) having a non-spherical, convexly curved configuration relative to the outer surface which would inherently satisfy applicant's claimed formula of $Y_1 \leq Y_2$, wherein Y_1 represents a vertical distance between the outer surface and a reflected screen image on a central axis of

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the panel, and Y2 represents a vertical distance between the outer surface and the refracted screen image in peripheral areas other than the central axis of the panel.

As to the newly added functional limitation "a glass having a transmission ratio of 60% or more", it is narrative in form and therefore does not carry any patentable weight. In order to be given patentable weight, a functional recitation must be expresses a "means" for performing the specified function, as set forth in 35 U.S.C. 6th paragraph, and must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language. *In re fuller*, 1929 C.D.

172: 388 O.G. 279.

Consequently, Kawamura anticipate applicant's claims 1 and 3.

4. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Makoto (JP '710, of record).

Makoto et al disclose applicant's claimed CRT (see all drawing Figures) including a flat panel, a funnel having a neck and an opening, an electron gun, a deflection yoke, a shadow mask, wherein the panel includes a flatly configured outer (front) surface (11) and an inner surface (2) having a non-spherical, convexly curved configuration relative to the outer surface which would inherently satisfying applicant's claimed

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formula of $Y_1 \leq Y_2$, wherein Y_1 represents a vertical distance between the outer surface and a reflected screen image on a central axis of the panel, and Y_2 represents a vertical distance between the outer surface and the refracted screen image in peripheral areas other than the central axis of the panel.

The newly added functional limitation "a glass having a transmission ratio of 60% or more", is again not given a patentable weight for reasons set forth in the previous paragraph.

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1 and 3 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of U.S. Patent No. 6,459,196.

Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-12 of U.S. Patent No. 6,459,196 recite applicant's claimed flat panel CRT including: configuration of inner and outer surfaces, relationship between Y1 and Y2, transmission ratio, as what are now being recited in instant claims 1 and 3.

7. Claims 1 and 3 are rejected under the judicially created doctrine of double patenting over claims 1-14 of U. S. Patent No. 6,160,344. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-14 of U.S. Patent No. 6,160,344 recite applicant's claimed flat panel CRT including: configuration of inner and outer surfaces, relationship between Y1 and Y2, transmission ratio, as what are now being recited in instant claims 1 and 3.

8. Claims 1 and 3 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims (a) 1-30 of copending Application No. 09/982,984; and (b) 1-27 of copending Application No. 09/983,003. Although the conflicting claims are not identical, they are not patentably distinct from each other

because each of these two co-pending applications recites applicant's claimed flat panel CRT including: configuration of inner and outer surfaces, relationship between Y1 and Y2, transmission ratio, as what are now being recited in instant claims 1 and 3.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

9. Please note that previously submitted terminal disclaimer (filed on October 08, 2002) is not acceptable since U.S. Patent number 6,163,686, as cited in that terminal disclaimer belongs to a different assignee. The U.S. Patent 6,163,686 is not owned by the same assignee.

Also please note that the USPTO has not received any new terminal disclaimer as of today's date. As a result, the Examiner simply maintains the above obviousness-type double patenting rejection until the USPTO receives a new acceptable terminal disclaimer.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok Patel whose telephone number is 703-305-4934. The examiner can normally be reached on Monday-Thursday.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4900.

Ashok
Ashok Patel
Primary Examiner
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